

TUESDAY, SEPTEMBER 3, 2019

Pursuant to adjournment comes now the Starke County Board of Commissioners and meet in Regular Session at 6:00PM in the Annex meeting room, Knox, Indiana, with Charles Chesak, Kathryn Norem, and Bryan Cavender present and the following proceedings were held to wit:

The meeting of the Board of Commissioners was called to order by Commissioner President Charlie Chesak at 6:00PM.

EMS MONTHLY REPORT

EMS Director Travis Clary and EMS Clerk MaryLynn Ritchie appeared before the Board to present their monthly departmental report. Clerk Ritchie presented the amounts received from small claims being \$610.09 and from Johnathon O'Hara being \$1622.27. She then presented the runs report, she stated the runs were down a little bit last month but the transfers were still very consistent. She presented the cash collection report and explained that they were up \$32,094.81 for the month of August compared to August of 2018. She stated that the total revenue for 2019 was up by \$227,184.38, and their total revenue for 2019 is \$745,804.74. Director Clary presented his operations report. He stated that their service continues to run smoothly. The transfer unit continues to be a great addition. They are still running 10-12 calls per day county-wide. He advised he has hired one additional part-time EMT to their service. They recently had one of their EMT's move up to Paramedic level. She will begin her orientation soon as a Paramedic. The PT EMT that was just hired will have his orientation completed by the end of the week. He advised he had taught CRP class for a local factory, and we had our monthly audit & review with Starke Hospital. We will be collaborating with Lutheran Air for an upcoming difficult airway course. It is the same course he had attended in Fort Wayne in March, and he stated he was excited that they can bring it here free of charge. They will be bringing in trauma surgeons to go over surgical airway options, and several other techniques of the airway. The airway is the most important part of our job; if the patient does not have an airway we have not achieved our job. It is important that we stay fresh with our intubation skills.

He advised that he had an employee suffer a lifting injury on 2 separate occasions. He was released to come back from work after 1 week, and then he reinjured his back in the same location. He is now off for 2 weeks, and will return fill duty next week. He stated under ambulance maintenance they have Unit #0086 (Medic 2) currently out of service at our County Highway Department. It is having a fuel leak repaired, and has received an oil change. However, the Highway Department did call him at 2:30 today to tell him it was ready for pick-up. Unit #0085 (Medic 1) will be going to Sherwood Tire on Thursday for new tires, a front end alignment, brakes, and rotors. Unit #0514 (Medic 5) will be going in for routine service next week. Unit #4230 (Medic 3) will also be serviced next week. Unit 3308 our back-up unit received 2 new batteries, and will go in for new tires after the above rigs have been serviced. He advised they have had no major base issues for the month of August and he will continue to be involved in local meetings. Director Clary asked if they could get \$50,000 set aside for a new ambulance unit for when a unit comes available. He would like the Commissioner's approval so that he can move forward to the council for his request. Commissioner Chesak asked if this would be a back-up unit. Director Clary stated this would be their primary transfer unit as they are using 2 back-up units at the moment as their transfer units. Commissioner Cavender made a motion to send the new ambulance unit and the \$50,000 request to the Starke County Council. Commissioner Norem seconded the motion and the motion passed with all ayes. Director Clary advised he was recently nominated for EMS Director/Officer of the year for the State of Indiana. The awards banquet will be later this month and at that time he will find out if he had been chosen. The State of Indiana is recognizing the achievements of Starke County EMS.

COUNTY HIGHWAY MONTHLY REPORT

Rik Ritzler, Superintendent of the County Highway Department, appeared before the Board to present his monthly departmental report. He advised the Bridge #7 replacement is in design and will be replaced in 2021, Bridge #154 was completed, Bridge # 140 replacement was awarded and they have a pre-con in late September. When this bridge is replaced will be contingent upon the emergency bridge that will be put in place to replace the culvert. Mark Wilson with JPR has expedited the design, worked with the utilities, and has the permit work completed. He stated they will be able to open the bids for that bridge on October 21st and will be able to reopen that area before the end of the year. He stated culvert cleanings are done and they have 6 more culvert replacements to do. The advised the bridge sealant has arrived and as soon as they have some time in their schedule they will begin sealing bridges. He will

need a crew of about 4 people to do the bridge sealant. The roadwork is ongoing, the intersection and 25 N is completed. The 1st round of paving was completed last month. They have begun crack sealing and chip sealing. He advised they are also completing a repair on 1200 E. and 900 E. as they had a drainage problem in that location. They will be paving that roadway as well. He presented information on speed studies:

County Road Traffic/Speed Studies

CR400S from CR100W to Range Rd. – Change to 45MPH

CR800S from US35 to CR700E – Change to 45 MPH

CR700E from SR8 to CR500N – Collecting Data

CR600E from CR700E to CR900N – Analyzing Data

Main St. in Ora from CR900S to CR850S – Collecting Data

He advised that the US35 and SR23 project is just about complete. A final inspection was completed with the DLZ staff who are doing the inspection for INDOT. A punch list was created. There weren't many errors in the paving but there were some striping and rumble strip concerns. He stated in his roadway improvements they had gotten a late start this year because of the rain but are back on track. They have crack sealed 8.9 miles, chip sealed 13.75 miles, used cold in plant recycling on 4 miles, hot mix asphalt on 3.2 miles, and cold mix asphalt on 10.2 miles. He presented the Board of Commissioners a chart of the roads they will be completing with cold mix and cold in plant recycling. He then presented the Commissioners with a mailbox policy he would like approved by the board. They have been using this format for the last 4 or 5 years but he would like it formally approved by the Commissioners. He advised they keep track of all the complaints they receive about mailboxes. From January, 2015 through September, 2019 they have had the following complaints:

Total Number of Complaints – 234

Number of Repeated Complaints – 25

Number of Winter Op's Complaints – 219

Number of Summer Op's Complaints – 15

Number of Summer Op's Complaints – Mower/Chopper Strikes – 9

Number of Summer Op's Complaints – Other – 6

Average recorded distance (in) from berm: 38.68

Number of Mailboxes Replaced – 38

Number of Posts Replaced – 24

He explained that this policy says the department is not responsible for snow and ice coming off the plow and knocking the mailbox down. He stated the policy also indicates that they will replace it if the plow itself hits the mailbox and if it is more than 5 feet off the berm. Commissioner Norem made a motion to approve the mailbox policy. Commissioner Cavender seconded the motion and the motion passed with all ayes. Superintendent Ritzler advised that they were approached by the Bass Lake Fire Department regards to the purchase of an old pumper fire truck. This will be used on the bridges and culverts. They had negotiated the price of \$2,000. He is requesting the Commissioners to sign a letter agreeing to the purchase. Commissioner Norem made a motion approving the purchase. Commissioner Cavender seconded the motion and the motion passed with all ayes. He then presented the Commissioners with the monthly fuel report. He advised the fuel usage was average for the month of August but up slightly for all departments for the entire year totals. He advised that he had attended the August 16th Coalition meeting in Warsaw. The Coalition is shifting its focus to safety as its lobbying focus for a freeway. Economic Development was decided to be an important second priority. Superintendent Ritzler then presented a request for leave of absence for one of his employees. He stated this employee was injured during a fire call this last month. He stated that this employee is expected to be out 3-6 months after surgery. Commissioner Norem advised if he is out longer than 3 months it would be longer than the FMLA policy. Commissioner Norem made a motion to approve the leave of absence for 3 months and then revisit the issue at the end of the 3-month period. Commissioner Cavender seconded the motion and the motion passed with all ayes.

RECORDER – AVID HOSTING PROPOSAL

Recorder Thomason asked for a decision regarding the server hosting site. She explained she was down again several times over the last couple weeks. IT Director Franks explained that the server the recorder is currently on does not support the new software. It requires a server that is 2016 or newer. He stated he has always pushed for an off-site server. He explained when you go through a hosting company they prioritize the security of the hosting of the server as this is what they specialize in. He stated this would

alleviate some space on the county's server and make room in our infrastructure for other upgrades. Commissioner Norem asked Recorder Thomason if she is going to pay for this out of her Recorder Perpetual Fund. Recorder Thomason stated she would be and she needs to speak with Attorney Lucas in the future as this may be eligible to be paid out of her new Enhanced Access Fund. After further discussion regarding the upload and download speeds Commissioner Norem asked Attorney Lucas if he had the chance to look at the contract. Attorney Lucas asked about the term of the contract and how long it lasts. Recorder Thomason stated she believes it follows their current contract which is for a period of three years. Commissioner Norem advised that in the contract under termination it states "The term of this license shall continue in perpetuity provided, that either party may terminate the license if the other party breaches this agreement and fails to cure such a breach". Attorney Lucas advised he is not sure what they mean by that paragraph. Attorney Lucas asked for clarification of the lifespan of the contract. He stated if it has the same lifespan of the existing contract he would be fine with this. Commissioner Norem made a motion to approve the AVID Hosting Proposal contingent upon Attorney Lucas's recommendations regarding the lifespan of the contract. Commissioner Cavender seconded the motion and the motion passed with all ayes.

1st SOURCE INSURANCE PROPOSAL

Christine Romine from 1st Source Insurance came before the Board of Commissioners to give a presentation regarding a Commercial Insurance Proposal. She explained that Travelers Property Casualty Company of America has provided the quote for deluxe property, crime, inland marine, auto liability, auto physical damage, umbrella liability, and workers compensation. She also explained that The Charter Oak Fire Insurance Company provided the quote for general liability, employee benefit liability, law enforcement liability, public entity management liability, and public entity employment-related practices liability. Ms. Romine explained each quote and gave information about the quoting company. She explained that she would advise to get a reproduction cost of the courthouse to look at that value and compare it to the replacement cost value. After further discussion regarding the proposal for commercial insurance as provided by 1st Source Insurance Commissioner Norem stated they will be taking this proposal under advisement and will be making a decision during their September 16, 2019 Commissioner's Meeting. The Commissioners requested Ms. Romine provide individual pricing on a few items if they were to elect not to carry certain coverages. Commissioner Norem made a motion to take the 1st Source Insurance Commercial Insurance Proposal under advisement. Commissioner Cavender seconded the motion and the motion passed with all ayes.

WILLIAMSON V VORM

Attorney Wallsmith came before the Board of Commissioners for the Petition of the vacation of part of Cedar Point Park & Cottage Corner Pointe. Attorney Lucas asked if there were any objections taking this matter to hearing today. An individual from the public spoke up and stated he objects to the matter being resolved. He stated he wants the plat to remain the original plat. Attorney Lucas explained to him that we will be getting to that discussion but he is only asking if there is any objection to the hearing of this petition. Attorney Bomberger then came before the Board of Commissioners. He stated his name is John Bomberger, an Attorney with Faegre Baker Daniels, 111 West Berry Street, Suite 2400, Fort Wayne, Indiana. He advised he represents Mr. & Mrs. Hampton who are the owners of Lot 11 in the plat that they are talking about tonight, being Cedar Pointe Park. He explained they received information not long ago that was regarding the hearing that was scheduled on August 19th, 2019 a notice. However, the notice did not contain a petition or a copy of the plat. He stated the plat was referenced to be observed at Mr. Wallsmith's office but upon inquiry at Mr. Wallsmith's office he was told that the plat map was still under construction and there were still changes being made to the plat. He advised under IC 36-7-3-12 there are black and white procedures that apply to the vacation of a private easement or a platted easement. He stated you must give notice of the petition and in order for there to be notice of the petition there needs to be a petition itself. He explained when the notice was sent to his client there was no petition contained in the envelope and no indication of who was the petitioner.

Attorney Bomberger stated this is a defect in the proceedings. He advised that the notice was to be published 10 days in advance before the hearing on August 19, 2019 and to his knowledge the notice was not published. He further explained that the current meeting requires, under IC 36-7-3-12, the notice of the public hearing which is to be opened and then closed in accordance with IC 36-5-3-1, requires a publication and certified mail to each person that is affected by the vacation request. He stated he has been told that the reliance is upon a petition that was filed 3 years ago, that notice was given 3 years ago, and perhaps published 3 years ago. In the interim there has been 3 years' worth of litigation that has occurred and so the petition that has been filed here is different than it was 3 years ago. He advised his

clients request is not with regard to the merit but that the petitioner be required to do the things that are in black letter law in the statute being file a new petition and go through the notice provisions. He stated their objective here is that the notice is defective and that the petition needs to be refiled and then the matter can be heard on its merits. Attorney Wallsmith explained they did publish and file the notice back in 2016 and everything was done as required at that point. He stated the matter was adjointed by the Starke Circuit Court through Judge Shurn until a settlement agreement had been reached. The discussion at that time between the council for the county and Attorney Williamson was that this was already filed and noticed and just needed to let everyone know that this was going to be heard again because so much time had passed. He believes that because Attorney Bomberger is here proves that he has had proper notice.

Attorney Bomberger advised he believe that is wrong and that he specifically mentioned when he began this that he was here solely to object to the notice and procedure and it is his position that the procedure has no foundation because the petition was not filed and you have to hear the petition within 30 days. This hearing is on a petition that was not filed 30 days ago but 3 years ago and just by black letter law it cannot stand. Commissioner Norem agreed with Attorney Bomberger because it has been 3 years. She stated at this point she does not believe it would hurt anyone to go through the proper notice procedures. Attorney Lucas asked if the Commissioners found that the filing needed to be redone that it would constitute any bar to the new filing. Attorney Bomberger agreed he just wants to go through the procedure appropriately. Commissioner Norem advised that she prefers that the petitioners refile, complete the publishing in the paper and then come back in about 30 days which would be their first meeting in October. Commissioner Norem made the motion that the petitioners refile the petition, and complete the publishing in the paper, and then come back to the Commissioners Regular Session on October 7, 2019. Commissioner Cavender seconded the motion and the motion passed with all ayes.

PROSECUTOR PERSONNEL REQUESTS

Prosecutor Baker came before the Board of Commissioners to discuss personnel requests. She stated she wanted to revisit the job descriptions and the new position she had presented at the last meeting. She stated that during the budget workshop the council did approve a 2% raise and the money needed for the investigator position. She stated this is not an additional request for funds and she would like the Commissioners to revisit this request. Commissioner Norem advised that she believes our county has good investigators at the Sheriff's Department and she does not see a reason for the county to employ investigators for the Sheriff's Department and investigators for the Prosecutor's Department. She also stated she would advise Prosecutor Baker to work closer with the Sheriff's Department. Prosecutor Baker stated that the money is in her budget and it is not an additional appropriation that she is asking anyone to make. She stated this position has nothing to do with the investigators of the Sheriff's Department and she has no problems working with those investigators. She stated this would be an additional means of support to follow up on cases that sometimes slip through the cracks. Commissioner Norem asked if the Investigator position is to be funded through the pre-trial diversion program. Prosecutor Baker stated that it would. Commissioner Norem stated she does not believe there are sufficient funds and revenue in that fund to support the budget that the council approved. Commissioner Cavender asked if it would be possible to have a meeting with Prosecutor Baker, Sheriff Dulin, himself, a council member, and Attorney Lucas. Both Prosecutor Baker and Sheriff Dulin agreed. Commissioner Cavender stated that somewhere along the line we all have to start working together. Commissioner Norem advised in the meantime she does not feel comfortable approving the requested positions pending the outcome of the meeting but not at the next scheduled regular session of the Commissioners. Prosecutor Baker asked when budgets have to be approved. Commissioner Norem advised they would be approved at the next council meeting but that does not mean things can be changed moving forward but this should also not be brought up and the next meeting as one conversation is not going to set things straight it is going to take work to straighten things out. Prosecutor Baker agreed to table this issue until then.

AUDITOR BUISNESS

Commissioner Cavender made a motion to approve the vendor claims in the amount of \$260,438.19. Commissioner Norem seconded the motion and the motion passed with all ayes. Commissioner Cavender made a motion to approve the Payroll Claims Docket for the pay period ending on 08/24/19 with a pay date of 08/30/19, in the payroll total gross amount of \$257,553.14 and Employee Deduction/Garnishments total gross amount of \$78,225.38. Commissioner Norem seconded the motion and the motion passed with all ayes. Auditor Oesterreich advised the Board of Commissioners that she will be presenting a proposal to upgrade the GIS paper maps during their next meeting.

PUBLIC COMMENTS

After no public comment Commissioner Cavender made a motion to adjourn at 7:10 PM. Commissioner Norem seconded the motion and the motion passed with all ayes.

SEPTEMBER 3, 2019

Charlie Chesak, President

Kathryn Norem, Vice-President

Bryan Cavender

Rachel Oesterreich, County Auditor
& Secretary to the Board of County Commissioners